

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Triple Braided Cord Trust,

Plaintiff

v.

Nationstar Mortgage, LLC, et al.,

Defendants

Case No.: 2:24-cv-00841-JAD-BNW

**Order Denying Emergency Motion for  
Preliminary Injunction and Ordering  
Plaintiff to Show Cause Why This Case  
Should Not be Dismissed**

[ECF No. 1]

Plaintiff Triple Braided Cord Trust, represented by its non-lawyer trustee Julie Embry, initiated this case by filing an emergency motion for a preliminary injunction prohibiting defendants Nationstar Mortgage LLC, Mr. Cooper, and MTC Financial from auctioning the Trust's real property on May 10, 2024.<sup>1</sup> I deny that motion for several reasons. First, the Trust has not filed a complaint in this action, leaving this case improperly commenced. "A civil action is commenced by filing a complaint with the court."<sup>2</sup> So it appears that the Trust's emergency motion is not properly before the court. And I cannot overlook this deficiency because the first step of the preliminary-injunction analysis is to determine whether the plaintiff has shown a likelihood of success on the merits of the claim that entitles it to injunctive relief.<sup>3</sup> Without a complaint identifying the Trust's claims, this court has nothing to analyze.<sup>4</sup>

<sup>1</sup> ECF No. 1.

<sup>2</sup> Fed. R. Civ. P. 3.

<sup>3</sup> See *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

<sup>4</sup> The Trust also purports to bring this motion under "U.S. District Court Rule 705." ECF No. 1 at 1. The Court is unaware of any such rule that applies in the preliminary-injunction context.

1 Second, it appears that pro se trustee Julie Embry seeks to represent the Trust in this  
2 action. But the Ninth Circuit has held that a person’s “status as trustee [does not] include the  
3 right to present arguments pro se in federal court.”<sup>5</sup> Courts interpreting that general rule have  
4 held that a trustee may only represent a trust if she is the sole “beneficial owner” of the trust’s  
5 assets.<sup>6</sup> Embry fails to show that she is the sole beneficial owner of the Trust’s assets, so it’s not  
6 clear whether she can represent the Trust. But given that the exhibits attached to the motion  
7 appear to name someone else as Grantor and Trustee of the property at issue, it seems unlikely  
8 that Embry is the sole beneficiary.<sup>7</sup>

9 Third, the Trust failed to follow this district’s local rules for filing an emergency motion.  
10 Local Rule 7-4 requires that an emergency motion “be accompanied by a declaration setting  
11 forth the nature of the emergency, the office addresses and telephone numbers of movant and all  
12 affected parties; and a statement of movant certifying that, after participation in the meet-and-  
13 confer process to resolve the dispute, the movant has been unable to resolve the matter without  
14 court action.”<sup>8</sup> The Rule also requires the moving party to “advise the courtroom administrators  
15 for the assigned district judge and magistrate judge that the motion was filed.”<sup>9</sup> The Trust failed  
16 to comply with any of these requirements.

17 Accordingly,  
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20 <sup>5</sup> *C.E. Pope Equity Tr. v. United States*, 818 F.2d 696, 698 (9th Cir. 1987).

21 <sup>6</sup> See, e.g., *Wills v. Bank of N.Y. Mellon*, 2023 WL 4146107, at \*2 (D. Or. June 22, 2023)  
(collecting cases interpreting *C.E. Pope* to mean that “an individual who is the trust’s beneficial  
22 owner may appear pro se on the trust’s behalf”).

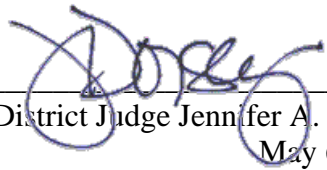
23 <sup>7</sup> See ECF No. 1 at 5–11.

<sup>8</sup> L.R. 7-4(a).

<sup>9</sup> *Id.* at (d).

1 IT IS HEREBY ORDERED that plaintiff Triple Braided Cord Trust's emergency motion  
2 for a preliminary injunction [ECF No. 1] is **DENIED**.

3 IT IS FURTHER ORDERED that plaintiff is **ORDERED TO SHOW CAUSE** by May  
4 **20, 2024, why this case should not be dismissed for failure to file a complaint or obtain**  
5 **proper legal representation.**

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7 U.S. District Judge Jennifer A. Dorsey  
8 May 6, 2024  
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